

REMARKS

Claims 1 and 2 remain active in this application. Claims 3 - 7 have been canceled, above without prejudice or disclaimer. No new matter has been introduced into the application.

Claims 1 - 3 and claim 6 have been separately rejected under 35 U.S.C. §103 as being unpatentable over Oakley in view of official notice. Claims 4 - 5 and 7 have also be separately rejected under 35 U.S.C. §103 as being unpatentable over Oakley in view of Fritsch and official notice. The rejection of claims 4 - 5 and 7 and the rejection of claim 6 are respectfully traversed as being moot in view of the cancellation of those claims. The rejection of claims 1 - 3 is also respectfully traversed for the reasons of record and the further remarks provided below in regard to claims 1 (as amended above to include the recitations of claim 3) and 2.

The Examiner's position appears to be that Oakley teaches an interconnection of a search server, a data distribution server and a download terminal and also asserts that Oakley teaches a cache server but admits that Oakley does not teach a personal terminal which is asserted to be inherent. The Examiner dismisses the majority of the recitations of the claims *in regard to specific interconnections and functional cooperation between these elements* by asserting official notice that it is known to connect such elements *generally* by the internet or other network and thus appears to assert that *any particular* connection or functional cooperation would thus be obvious. It has been pointed out in detail in previous responses that the Examiner's reliance of inherency and official notice are *both* improper and fail to answer the recitations of the claims: an assertion of inherency is only proper where the subject matter regarded as inherent would

necessarily follow from subject matter which is, in fact, explicitly disclosed and official notice can only be properly taken where the subject matter as to which notice is taken is so notoriously well-known that evidence thereof is unnecessary. In the office action of October 25, 2004, the Examiner has sought to buttress the taking of official notice by citation of additional prior art not included in the statement of the rejection and which do not appear to answer the claim recitations and/or be properly combinable with Oakley. It has also been pointed out that if the references could properly buttress the taking of official notice, the issue of propriety of the taking of official notice could be rendered moot by including such references in the stated ground of rejection which the Examiner did not do; thereby effectively admitting that these additional references do not answer the claim recitations or otherwise mitigate the deficiencies of Oakley. The Examiner did not substantively comment upon any of these arguments in either of the Advisory Actions of January 7 or January 14, 2005, but merely indicated they were non-persuasive.

Accordingly, it is respectfully submitted that it has been amply shown that the Examiner has not made a *prima facie* demonstration of obviousness of the subject matter now recited in claims 1 or 2 and that the statement of the rejection of this subject matter is clearly untenable. Therefore, reconsideration and withdrawal of the same are respectfully requested.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon

reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

A petition for a three-month extension of time has been made above. If any further extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,



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